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FM AMEMBASSY LIMA
TO RUEHC/SECSTATE WASHDC 9532
INFO RUEHBO/AMEMBASSY BOGOTA 3191
RUEHBU/AMEMBASSY BUENOS AIRES 2323
RUEHCV/AMEMBASSY CARACAS 9250
RUEHQD/AMEMBASSY QUITO 0188
RUEHLP/AMEMBASSY LA PAZ APR SANTIAGO 0361
RUCPDOC/DEPT OF COMMERCE WASHINGTON DC
RUEATRS/DEPT OF TREASURY WASHINGTON DC
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UNCLAS LIMA 001263

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USTR FOR AUSTR EEISSENSTAT AND BHARMAN
COMMERCE FOR 4331/MAC/WH/MCAMERON
TREASURY FOR OASIA/INL
WHA/AND, WHA/EPSC, EB/TPP/BTA

E.O. 12958: N/A

TAGS: ETRD ECON EINV PGOV PREL PE

SUBJECT: LETOURNEAU AND GOP REACH SETTLEMENT AFTER 35 YEARS

REF: LIMA 207 AND PREVIOUS

¶1. (SBU) Summary: LeTourneau's attorney on March 30 accepted Peru's offer of compensation for road construction performed more than 35 years ago. Payment of the approximately \$10 million settlement, expected by May 15, would conclude this ATPDEA commercial dispute. End Summary.

ATPDEA Resuscitated Dormant Claim

¶2. (U) In a September 2002 letter to then-U.S. Trade Representative Robert Zoellick, the GOP committed to settle nine U.S. company disputes, including a debt it owed to the LeTourneau firm. The letter was one of a series of conditions that enabled Peru to qualify for trade benefits under the Andean Trade Promotion and Drug Eradication Act (ATPDEA). Peru recognized the need to implement a 1970 Peruvian Supreme Court decision that ordered LeTourneau be compensated for the value of a 60-kilometer road the company built in difficult jungle terrain between 1954 and 1968. For decades, the two sides remained far apart on the value of the road despite ten appraisals and an inter-agency commission created to negotiate a solution.

¶3. (SBU) On March 30, Roy LeTourneau and his attorney Bruce Kiely traveled to Lima to reach a settlement with the GOP. After discussions lasting nearly three hours, LeTourneau accepted the GOP's approximately \$10 million settlement offer. To formally settle the dispute in the judiciary, LeTourneau's attorney agreed to sign a court settlement document in the near future.

¶4. (SBU) The settlement established the value of the road at \$857,645 (38 million Soles Oro). That total was converted into dollars using the parallel exchange rate from October 1968. To bring this figure to present day value through May 2006, both sides agreed to a 50-50 mix of U.S. Treasury Bill and Bond rates. EconCouns witnessed the handshake settlement. That evening LeTourneau's attorney sent a letter to Loret de Mola formally accepting the Peruvian offer.

GOP Based Road Value on 1968 Letter

15. (SBU) The discussion focused on a letter from LeTourneau's Vice President to the Velasco military government on October 18, 1968, which cited 38 million Soles Oro as the road's value. GOP Disputes Coordinator Aurelio Loret de Mola stated repeatedly that he could not go beyond this amount, arguing that he would successfully gain Congressional approval for this figure, but could not guarantee success in seeking a higher number. Both sides explored options involving the value of the road, exchange rate alternatives, and the updating methodology. However, the GOP's offer from December 2005 (reftel) did not change.

Payment Schedule

16. (SBU) Loret de Mola explained that the Toledo Cabinet would approve a supplemental appropriation proposal on April 12 that includes the LeTourneau settlement, among other disbursement requests. The Executive would then present a bill to the Congressional Budget Commission for consideration and approval by the plenary. Loret de Mola committed to make a lump-sum payment to LeTourneau by May 15, 2006.

Comment: One Final Step

17. (SBU) The final hurdle to closure is payment by the GOP. We do not anticipate any difficulties at this point, and will immediately report any problems or deviations from the established timeline. The free trade agreement carrot was instrumental in generating a GOP settlement offer in this long-standing dispute. Moreover, The Ambassador, in a recent discussion with LeTourneau's attorney on U.S. leverage and political uncertainties, recommended a settlement before the upcoming change in administration.

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